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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,663

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Simon Wilson

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10/07/2008

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EXAMINER

GONZALEZ, AMANCIO

ART UNIT

PAPER NUMBER

2617

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10/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,663

Applicant(s)

WILSON, SIMON

Examiner

AMANCIO GONZALEZ

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-16, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-16, 20, and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-11, 14-16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halkosaari et al. (US 20020193136 A1), hereafter "Halkosaari," in view of Hill et al. (US 6453155 B1), hereafter "Hill," further in view of Takagi (US 5111503 A), hereafter "Takagi."

Consider claims 1, 16 and 20, Halkosaari discloses a mobile electronic device providing an engine assembly –reads: telephone circuitry (**see fig. 1, element 25**)- comprising a display and switches (**see fig. 2, elements 44 and 46**); and a *changeable* cover overlying, without an intermediate rigid cover, and snugly fitting the engine assembly and comprising an integrated keypad (**see par. 0021, where Halkosaari**

describes the keypad being a unitary flexible polymer structure), for user input, aligned with the plurality of switches **(see fig. 2).**

Halkosaari clearly discloses a mobile telephone comprising an engine assembly with a plurality of switches as stated above and as shown in fig. 2, but does not particularly refer to a flexible cover.

Hill teaches a flexible cover **(see col. 1 lines 66-67, col. 2 lines 1-40, figs. 1-5, where Hill discusses a mobile communication device, i.e., a cell phone, with a flexible cover without an intermediate portion between the engine assembly and the flexible cover).**

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Halkosaari and have it include a flexible cover, as taught by Hill, thereby providing means for the motivation of producing an enclosure for portable communication apparatus being flexible enough to be easily formed into a variety of shapes in order to provide the maximum in user-personalized experience, as discussed by Hill **(see pars. col. 1 lines 4-14).**

But the combined references of Halkosaari and Hill do not disclose an elastically deformable cover material.

Takagi, in related art, discloses an elastically deformable cover material (see col. 5 lines 36-43).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the invention of Halkosaari as modified by Hill and

have it include an elastically deformable cover material, as taught by Takagi, thereby providing means for the purpose furnishing a resilient cover for protecting the circuitry enclosure of a mobile communication device.

Consider claim 2 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1; and Halkosaari further teaches wherein the cover defines a cavity for receiving the engine assembly and has an insertion aperture through the material to the cavity through which the engine assembly can fit (see Halkosaari: par. 0018, fig. 2, where Halkosaari shows that an insertion aperture for receiving the engine assembly can be seen after top shell 10 and bottom shell 12 of the housing are separated).

Consider claim 3 as amended. Halkosaari as modified by Hill and Takagi teaches claim 2; and Halkosaari further teaches means for closing or restricting the insertion aperture after the engine assembly has been inserted (see Halkosaari: pars. 0016, 0026; figs. 1, 4A and 4B).

Consider claim 4 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1; and Halkosaari further teaches wherein the flexible cover comprises an aperture aligned with the display (see Halkosaari: par. 0020, fig. 2, wherein the display interface 16 is shown as a substantially clear port 76, which is aligned with the assembly engine display).

Consider claim 5 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1; and Hsu further teaches a plurality of fabric or leather portions attached to the substrate and/or each other (see Hsu: par. 0009).

Consider claim 6 as amended. Halkosaari as modified by Hill and Takagi teaches claim 5; and Halkosaari further teaches an overlapping portion on the cover (see Halkosaari: fig. 4B, element 150).

Consider claim 7 as amended. Halkosaari as modified by Hill and Takagi teaches claim 6; and Halkosaari further teaches wherein portions of the underlying substrate of the mobile phone are exposed (see Halkosaari: fig. 2, elements 22, and 54, where Halkosaari shows the power interface, as part of the underlying substrate is exposed through an opening in the bottom of the cover).

Consider claim 8 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1; and Halkosaari further teaches wherein the integrated keypad has a plurality of key portions on an exterior surface of the flexible cover and a plurality of corresponding projections on the interior surface of the flexible cover, each of said projections being arranged to actuate one of the plurality of switches of the engine assembly (see Halkosaari: par. 0015, fig. 2).

Consider claim 9 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1; and Halkosaari further teaches wherein the flexible cover and the engine assembly have corresponding projections and receptacles for aligning the flexible cover correctly with the engine assembly (see Halkosaari: par. 0018; fig. 2).

Consider claim 11 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1; and Hill further teaches wherein the flexible cover is substantially

formed from one-piece of material (see Hill: col. 1 lines 66-67, col. 2 lines 1-40, figs. 1-5).

Consider claim 14 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1; and Hill further teaches wherein the flexible cover for a mobile telephone has a molded substrate adjacent the engine assembly (see Hill: col. 1 lines 66-67, col. 2 lines 1-40, figs. 1-5).

Consider claim 15 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1; and Halkosaari further teaches wherein the flexible cover of a mobile telephone is user replaceable (par 0002; figs. 2, 4A, and 4B).

Consider claim 21. Halkosaari as modified by Hill and Takagi teaches claim 1; and Hill further discloses a telephone without an intermediate rigid cover (see Halkosaari: par. 0021).

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halkosaari et al. (US 20020193136 A1), hereafter "Halkosaari," in view of Hill et al. (US 6453155 B1), hereafter "Hill," further in view of Takagi (US 5111503 A), hereafter "Takagi," as applied to claim 1, further in view of Mitchel (US Pat 6082535), hereafter "Mitchel."

Consider claim 13 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1, but does not particularly refer to the flexible cover for a mobile telephone having an elastic and waterproof substrate adjacent the engine assembly.

Mitchel, in related art, teaches a protective waterproof cover permanently adhered to the substrate of the engine assembly (see col. 3, lines 44-47, 60-64).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the invention of Halkosaari as modified by Hill and Takagi and have it include a protective waterproof cover permanently adhered to the substrate of the engine assembly, thereby providing means for the motivation of producing an impermeable protective sealing to cover the electronic circuits under the removable flexible cover of a mobile telephone.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halkosaari et al. (US 20020193136 A1), hereafter "Halkosaari," in view of Hill et al. (US 6453155 B1), hereafter "Hill," further in view of Takagi (US 5111503 A), hereafter "Takagi," as applied to claim 1, further in view of Badillo et al. (US Pat 6729518), hereafter "Badillo."

Consider claim 12 as amended. Halkosaari as modified by Hill and Takagi teaches claim 1, but does not particularly refer to a cell phone cover with overlapping members or limbs.

Badillo, in related art, discloses cell phone covers with overlapping members or limbs (see abstract and figs. 1-14).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the invention of Halkosaari as modified by Hill and Takagi and have it include a cell phone cover with overlapping members or limbs, as

taught by Badillo, thereby providing means for conveniently protecting handheld electronic devices, as discussed by Badillo (see col. 1 lines 15-67 and col. 2 lines 1-14).

Response to Arguments

Applicant's arguments with respect to claims 1-9, 11-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents

P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Delaney Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Amancio Gonzalez, whose telephone number is (571) 270-1106. The Examiner can normally be reached on Monday-Thursday from 8:00 am to 5:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Charles Appiah, can be reached at (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Art Unit: 2617

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

AG/ag

September 29, 2008.

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617